

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

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PAULA KADIM
Plaintiff,

v.

ADELPHIA and
CIGNA GROUP INSURANCE
and its affiliate Company LIFE
INSURANCE COMPANY OF
NORTH AMERICA
Defendants.

Civil Action No. 04 CV 12383 CAG

DEFENDANTS' MOTION TO DISMISS PLAINTIFF'S COMPLAINT

NOW COMES Defendant Cigna Group Insurance Company ("Cigna") and Defendant Adelphia ("Adelphia") pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure and hereby request that this Court grant Defendants' motion and dismiss Plaintiff's Complaint for failure to state a claim upon which relief can be granted. Plaintiff's claims all arise out of and relate to an employee benefit plan governed by ERISA. As detailed in Defendants' Memorandum filed herewith, Plaintiff's claims must be dismissed because: (1) the contract and M.G.L. c. 93A claims contained in Count I are preempted by ERISA; (2) Plaintiff fails to state a claim for the civil rights and breach of employer-employee claims alleged in Count II and even if she did, they are preempted; (3) Plaintiff fails to state a claim for the breach of fiduciary duty claims alleged in Count III and even if she did, the state law claim is preempted and the ERISA claim is barred; and (4) Plaintiff fails to state a claim for the breach of employment contract claim alleged in Count IV and even if she did, it is preempted. In addition, Defendant Cigna

Group Insurance Company ("Cigna") must be stricken from the Complaint or dismissed from this suit because Cigna is not a legal entity and not a proper party to this Complaint.

Respectfully submitted,

DEFENDANTS ADELPHIA and
CINGA GROUP INSURANCE and its
affiliate LIFE INSURANCE COMPANY OF
NORTH AMERICA,

By its Attorney,



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Theodore F. Glockner, BBO # 629469

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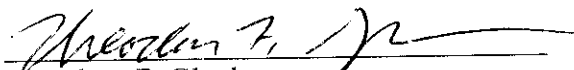
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CERTIFICATE OF SERVICE

I, Theodore F. Glockner, hereby certify that I have served a copy of the foregoing on the plaintiff by mailing a copy, by first class mail, postage prepaid, to the address of his attorney of record, this 12th day of November, 2004.


Theodore F. Glockner